

AMENDED IN SENATE JUNE 9, 2014

AMENDED IN SENATE MAY 28, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 380

Introduced by Assembly Member Dickinson

February 14, 2013

An act to add Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 380, as amended, Dickinson. Spill response for railroads.

Existing law requires the Office of Emergency Services to implement regulations establishing minimum standards for business plans and area plans relating to the handling and release or threatened release of hazardous materials. Existing law requires the establishment of a statewide environmental reporting system for these plans.

This bill would require a rail carrier, as defined, to report specified information regarding the transportation of hazardous materials, beginning no later than January 31, 2015, to the office on a quarterly basis. The bill would require each rail carrier to maintain a response management communications center, as specified. The bill would require the office to disseminate ~~relevant~~ information *necessary for developing emergency response plans* from the quarterly reports it receives pursuant to this act to each unified program agency, as defined, when the office

determines a unified program agency area of responsibility may be impacted by a hazardous material or oil cargo spill. The bill would require each rail carrier to provide the office with a summary of the rail carrier's hazardous materials emergency response plan, as specified. The bill would require the office to provide a copy of each summary report of a rail carrier's hazardous materials emergency response plan to each unified program agency when the office determines a unified program agency area of responsibility may be impacted by a rail carrier spill of hazardous material or oil cargo and that unified program agency has been identified by the rail carrier, in consultation with the office, as able to receive security sensitive information, as specified, on a need-to-know basis. The bill would prohibit a recipient of the reports and hazardous materials emergency response plan from divulging or making known that information to unauthorized recipients, as specified. The bill would exempt the reports and hazardous materials emergency response plan from the California Public Records Act.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5 (commencing with Section 25547) is
2 added to Chapter 6.95 of Division 20 of the Health and Safety
3 Code, to read:

4

5 Article 5. Spill Prevention and Response for Railroads

6

7 25547. For purposes of this article, the following terms have
8 the following meanings:

9 (a) "Hazardous material" means a substance or material that the
10 United States Secretary of Transportation has determined to be
11 capable of posing an unreasonable risk to the health, safety, and
12 property of residents when transported in commerce and has been
13 designated as hazardous pursuant to Section 5103 of Title 49 of

1 the United States Code. Hazardous material includes hazardous
2 substances, as defined in Section 25501, hazardous wastes, marine
3 pollutants, elevated temperature materials, materials designated
4 as hazardous in Section 172.101 of Title 40 of the Code of Federal
5 Regulations, and materials that meet the defining criteria for hazard
6 classes and divisions in Part 173 of Title 49 of the Code of Federal
7 Regulations.

8 (b) "Office" means the Office of Emergency Services.

9 (c) "Oil" has the same meaning as in Section 8670.3 of the
10 Government Code.

11 (d) "Rail carrier" means a person providing common carrier
12 railroad transportation for compensation, but does not include
13 street, suburban, or interurban electric railways not operated as
14 part of the general system of rail transportation.

15 25547.2. (a) No later than January 31, 2015, and every three
16 months thereafter, a rail carrier shall submit to the office
17 commodity flow data for the prior three months broken down by
18 county and track route relevant to the 25 largest hazardous material
19 commodities transported through the state, including tank cars
20 loaded with oil cargo. The commodity flow data shall conform to
21 all of the following:

22 (1) Be in accordance with Subpart G of Part 172 of Title 49 of
23 the Code of Federal Regulations and in Standard Transportation
24 Commodity Code numeric sequence.

25 (2) Include a description of the hazardous material or oil cargo
26 and commodity name organized by number of carload type,
27 including tank cars and gondola cars, intermodal loads, including
28 trailers, containers and tank containers, and total loads transported
29 within a county over the prior three months.

30 (3) Be encrypted and stamped as security sensitive information
31 material, as identified pursuant to Section 15.5 of Part 15 of Title
32 49 of the Code of Federal Regulations.

33 (b) The office shall disseminate ~~relevant~~ information *necessary*
34 *for developing emergency response plans* from the quarterly reports
35 prepared pursuant to this section in whole or in summary form to
36 a unified program agency, as defined in Section 25501, when the
37 office determines a unified program agency area of responsibility
38 may be impacted by a hazardous material or oil cargo spill. Rail
39 carriers shall provide additional information to the ~~office, as~~
40 ~~necessary~~, *office related to the specific commodity flow data, to*

1 assist a unified program agency with its emergency ~~response~~.
2 *response planning*.

3 25547.4. Each rail carrier shall maintain a response
4 management communications center, which shall provide real-time
5 information to an authorized public safety answering point or 911
6 emergency response center about the train consist involved in a
7 hazardous material or oil cargo spill or other critical incident,
8 including, but not limited to, both of the following:

9 (a) Hazardous material movement shipping papers, including
10 a way bill or total trace, detailing the hazardous material or oil
11 cargo.

12 (b) Information that can assist the primary local public safety
13 agency in containing and safely removing a hazardous material
14 spill.

15 25547.6. (a) Each rail carrier shall provide the office with a
16 summary of the rail carrier's hazardous materials emergency
17 response plan. The hazardous materials emergency response plan
18 shall not be posted on a public Internet Web site or be subject to
19 public agency or public review and approval processes.

20 (b) The office shall provide a copy of each summary report of
21 a rail carrier's hazardous materials emergency response plan to
22 each unified program agency, as defined in Section 25501, when
23 the office determines a unified program agency area of
24 responsibility may be impacted by a rail carrier spill of hazardous
25 material or oil cargo and that unified program agency has been
26 identified by the rail carrier, in consultation with the office, as able
27 to receive security sensitive information, as identified pursuant to
28 Section 15.5 of Part 15 of Title 49 of the Code of Federal
29 Regulations, on a need-to-know basis.

30 25547.8. (a) A recipient of the reports and plans provided
31 pursuant to Sections 25547.2 and 25547.6 shall not divulge or
32 make known that information to unauthorized recipients, including,
33 but not limited to, individuals or organizations not legally
34 authorized to engage in emergency planning and response
35 activities.

36 (b) The reports and plans provided pursuant to Sections 25547.2
37 and 25547.6 shall be exempt from the California Public Records
38 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
39 of Title 1 of the Government Code), except that the office may
40 authorize disclosure if, in the discretion of the office, disclosure

1 relevant to a particular shipment is necessary to provide for its safe
2 transport through the state.

3 SEC. 2. The Legislature finds and declares that Section 1 of
4 this act, which adds Section 25547.8 to the Health and Safety Code,
5 imposes a limitation on the public's right of access to the meetings
6 of public bodies or the writings of public officials and agencies
7 within the meaning of Section 3 of Article I of the California
8 Constitution. Pursuant to that constitutional provision, the
9 Legislature makes the following findings to demonstrate the interest
10 protected by this limitation and the need for protecting that interest:

11 In order to provide for the safe transport of hazardous materials
12 through the state and to avoid creating a transportation security
13 risk, it is in the state's interest to limit public access to this
14 information.